HIGH COURT OF UTTARANCHAL AT NAINITAL.

Misc. Application No. 1681 of 2005
In
Writ Petition No. 3542 of (S/S) of 2001
Old No. 41083 of 2000

Ram Bhajan, son of late Sri Makarand Lal, resident of Banbasa, Headpul Banbasa, C/o Suresh Chandra, Banbasa Headpul, Post – Banbasa Canal, District – Champawat.

.....**Petitioner.**

V e r s u s

1. Chief Engineer Irrigation, Ganga Sinchai Bhawan, Telibagh, Lucknow.
2. Superintending Engineer, V Region Irrigation Office, Bareilly, District – Bareilly.
3. Executive Engineer, Head Works Khand, Sharda Nahar, Bareilly.
4. Accountant General, III Pension Audit Section, U.P. Allahabad.
5. Chief Account Officer (Pension Anubhag), Office of Chief Engineer, Irrigation Department, U.P. Lucknow.
6. State of U.P. through Secretary Irrigation, Lucknow(U.P.).
7. State of Uttaranchal, through Secretary, Irrigation, Dehradun, Uttaranchal.

.....Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri B.S. Khanka, learned counsel for the petitioner, Smt. Beena Pandey, learned standing counsel for State of U.P., who has accepted notices on behalf of respondents no. 1 to 6, and learned standing counsel for State of

Uttaranchal, who has accepted notice on behalf of respondent no. 7.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of mandamus commanding the respondents to give him appointment under Dying in Harness Rules and has further prayed that a direction be issued to the respondents to pay GPF, LIC, gratuity and family pension for which he is entitled.

The submission of the petitioner is that his father, who was working as Nayab Tandail/Beldar in the Irrigation Department, Banbasa, District – Udham Singh Nagar, died on 14.10.1983 while in service. At that relevant time, petitioner was 10 years old and after attaining the age of majority, he has moved an application for appointment under Dying in Harness Rules to the Department.

It reveals from the counter affidavit that since the petitioner has moved an application for appointment under Dying in Harness Rules after a lapse of five years consequently, his case was sent to the State Government for decision.

During the course of the argument, learned counsel for the petitioner has submitted that so far as the post retirel benefits are concerned the same had been paid by the department, however, no decision for providing appointment, to the petitioner has been taken by the State Government.

Petitioner has confined his prayer that State Government be directed to take decision on petitioner's application for appointment under Dying in Harness Rules.

It has been stated in paragraph 6 of the counter affidavit that petitioner's application was sent to Executive Engineer, Head Work Division, Sharda Nagar, Bareilly and the same was again forwarded to Chief Executive Engineer (Sharda), Ganga Sinchai, Bhawan, Telibagh, Lucknow.

The power to give age relaxation for appointment under Dying in Harness Rules is vested in the State Government and it is not clear from the counter affidavit whether the petitioner's application has actually been forwarded to the State Government or not. In case, the petitioner's application has been forwarded to the State Government, the State Government shall take decision on the application within a period of six weeks from the date of production of certified copy of this order and in case, the Chief Executive Engineer (Sharda), Ganga Sinchai Bhawan Telibagh, Lucknow has yet not forwarded the application to the State Government, he shall forward the same to the State Government for necessary action within a period of one month from the date of production of certified copy of this order and thereafter, the State Government Shall take decision on the petitioner's application within a period of two months from the receipt of letter from Chief Executive Engineer (Sharda), Ganga Sinchai Bhawan Telibagh, Lucknow.

With this direction the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

April 23, 2005
SKSharma,